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CORRESPONDENCE.**The Capitation Tax Again.**

Editor of Virginia Law Register:

Mr. Pendleton of the Lexington bar and yourself concur in the conclusion that the failure of the Legislature to levy a state capitation tax would not disfranchise voters otherwise qualified under the Constitution. This being true is not the matter of the payment of the state poll tax as a prerequisite to the right of suffrage a mere political question? If the Legislature fails or refuses to levy a state poll tax would not such action wholly eliminate the state capitation tax as an incident in any way to the right of suffrage, without amending the Constitution in the method prescribed therein?

I should be glad to have your views.

Very truly yours,

Harrisonburg, Va., May 10, 1906.

JOHN T. HARRIS.

The question here, as we understand it, is: Whether § 173 of the Virginia constitution executes itself, or does it require legislative action? The rule is that constitutional provisions are self executing where there is a manifest intention that they should go into immediate effect, and ancillary legislation is necessary to the enjoyment of a right given or the enforcement of a duty imposed. So that to determine whether the provision in our constitution is complete and operative in itself without any legislation to give it effect is not without difficulty. In our opinion, however, the section, when taken in connection with § 168 of the Virginia Code, is self executing. It is very true that it is directed in express language to the legislature, but it goes further and prescribes the amount of the tax, the persons assessable, and the disposition to be made of the tax after collected; and § 168 points the manner by which it is to be levied and collected. If the legislature acted, it would seem that they could do very little more than embody this constitutional provision in a statute.

A provision in the constitution of Illinois directing the assessment of a two-mile tax, and providing that the fund so created shall be apportioned and paid over pro rata on the principal of that portion of the state debt not included under the heads of canal and school indebtedness, is a complete provision in itself, and can be executed without the aid of the legislature in making an appropriation. *People v. State*, 12 Ill. 307.

The ninth section of the tenth article of the constitution of West Virginia which is in these words, *viz.*; "The legislature may, by law, authorize the corporate authorities of cities, towns, and villages, for corporate purposes, to assess and collect taxes; but such taxes shall be uniform, with respect to persons and property within the jurisdiction of the authority imposing the same," is addressed to the legislature, is prospective in its operation, and does not operate *proprio vigore*. *Douglass v. Harrisville*, 9 W. Va. 162.